

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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JOSEPH A. CATANZARO,  
Plaintiff,

04-CV-0892E(Sc)

-vs-

ORDER

JO ANNE B. BARNHART,  
Commissioner of Social Security,  
Defendant.

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The Honorable Hugh B. Scott, a Magistrate Judge in this judicial district, having conducted all proceedings necessary to determine the merits of factual and legal issues presented in this matter pursuant to this Court's referral under 28 U.S.C. §636(b)(1)(B), and having on December 27, 2005 filed his Report and Recommendation concerning such and no objection thereto having been made, it is hereby

**ORDERED** that said Report and Recommendation is fully confirmed, that defendant's motion for judgment on the pleadings is denied, that plaintiff's motion is granted and that the Commissioner's determination is reversed and this matter is remanded for further administrative proceedings.

DATED: Buffalo, N.Y.

January 24, 2006

/s/ John T. Elvin

JOHN T. ELFVIN  
S.U.S.D.J.